

## **FINDING OF EMERGENCY**

These regulations are being adopted on an emergency basis for the immediate preservation of the public peace, health and safety, and general welfare, within the meaning of Government Code Section 11346.1(b).

### **DESCRIPTION OF THE FACTS WHICH CONSTITUTE THE EMERGENCY**

In recent years, families of developmentally disabled consumers have increasingly turned to the use of respite services in order to keep their families together and to keep the consumers living at home when possible. Although many regional centers purchase different mixes of service types, there are basically three options available to these centers. These options include purchasing services from a respite service agency, purchasing services from individuals vendored to provide respite services, or providing families with vouchers which may be used to hire their own workers to provide the services, including family members not living in the home.

There are approximately 27,090 Respite - Family Member vendors who procure respite services utilizing a voucher issued by the regional center. Under the voucher service, the regional center reimburses the vouchered family member who, in turn, has responsibility for the selection, supervision, and level of payment of the individual worker. The family member may select the worker from an individual, an agency, or a facility when out-of-home respite is required. Within a given period of time, the family member may utilize several different individuals, a respite agency, and/or, if out-of-home respite is required, a respite facility to provide the respite service. The family member has the flexibility to hire an individual, or individuals, at a lower rate of pay in order to increase the number of respite hours available to them, or they may reimburse the workers at varying levels of pay depending on the qualifications of the worker. By regulation, reimbursement for these workers may not exceed \$8.57 per hour.

If the regional centers hire the respite workers directly ( i.e., they are vendored as individual respite workers), the maximum reimbursement rate is also \$8.57 per hour. In fiscal year (FY)1999-00, \$51 million was spent on respite services provided by a combination of individuals vendored to provide respite services, family members vendored to procure respite services via a voucher and respite facilities. Of this \$51 million, approximately \$48 million was spent for respite services procured by the vendored parents/guardians via vouchers.

On the other end of the scale, respite agencies, which maintain offices from which they recruit, train and place staff, have the highest reimbursement rates, ranging up to \$18.82 per hour for fiscal year 2000/01, with a mean rate of \$15.76 per hour.

Because purchase of service dollars are limited, regional center usage of the respite service agencies has declined significantly as the usage of respite services-family member has increased (see attachments). For example, in FY 1994-95, Respite

Services-Family Member (service code 420) and In-Home Respite Services Agency (service code 862) accounted for 55% and 42% of the total respite expenditures, respectively. By FY 1999-00, service code 420 expenditures swelled to 71% of the total expenditures, while the 862 expenditures dropped to 23%. While there is an issue of cost effectiveness, the respite agencies still provide a quarter of the respite services, and they must remain a viable option.

Under the current rate structure, the respite agencies' rates are based on FY 1995-96 cost statements, plus various raises that have been allocated for specific purposes since then. For agencies in catchment areas of regional centers that have used vouchers heavily, the effect has been that the respite agencies cannot recover the fixed cost portion of expenses in light of the decreasing usage. Regulatory changes are needed to allow these agencies to seek rate adjustments where it can be demonstrated that the increased use of vouchers has had such an impact on their operations that they can no longer cover their basic fixed overhead costs without such rate adjustments.

In order for vendors to be able to apply for these anticipated rate adjustments by the December 1 deadline required in this section, this filing needs to be approved on an emergency basis.

#### **AUTHORITY AND REFERENCE**

Authority : Sections 4691 and 4691.5, Welfare and Institutions Code.

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